

C. DUKES SCOTT
EXECUTIVE DIRECTOR

P.O. Box 11263
Columbia, S.C. 29211



Phone: (803) 737-0800
Fax: (803) 737-0801

DAN EARNETT
CHIEF OF STAFF

1771335

January 9, 2006

2006 94/s

RECEIVED
2006 JAN -9 PM 4:38
SC PUBLIC SERVICE
COMMISSION

Mr. Charles L.A. Terreni
Chief Clerk/Administrator
South Carolina Public Service Commission
101 Executive Center Drive
Columbia, SC 29210
VIA HAND DELIVERY

Re: ORS Comments to the Commission's Proposed Changes to Article 5

Dear Mr. Terreni:

Following is a list of comments by the ORS Staff regarding the Commission's proposed changes to Article 5 (Wastewater Utilities) of the Commission's Regulations. One overall comment from the ORS regarding the revisions to both Articles 5 and 7 is a request that the Commission consider the possibility of combining these two into a single Article as the majority of Regulations in Articles 5 and 7 have identical language. The merger would significantly reduce the overall number of regulations and potentially eliminate any confusion within the industry for those utilities which operate both water and wastewater facilities. Water or wastewater specific Regulations could be address in water and wastewater subarticles.

The ORS appreciates the opportunity afforded it by the Commission in the continued development of these regulations.

1. The ORS would respectfully request that the term "Sewerage Utilities" or "sewerage" contained both in the title of this Article and throughout be amended to read "Wastewater Utilities" or "wastewater" as some of the entities regulated by this article do not operate sewer systems. Some of those so regulated operate septic systems or discharge/spray effluent on golf courses or similar areas.
2. **103-505.** The ORS suggests that the language of this regulation be revised as follows: "Each utility shall adopt rules, regulations, operation procedure policies, terms and conditions, etc. as may be necessary in the operation of the utility. Such service conditions and/or regulations shall be approved by and filed with the Commission and the ORS."
3. **103-510.** The ORS recommends that the second sentence of this Regulation be amended as follows: "These records shall be available for examination by the Commission and ORS or its authorized representative at all reasonable hours." As to both 103-505 and 103-510, the recommended changes would properly reflect that the inspection of regulated utility's procedures, operations, and records is a function of the ORS.

4. **103-511.** The ORS would request that the below or similar language be added as a second sentence to this regulation: "All records related to a test year used in a rate adjustment proceeding shall be preserved for two years or throughout the period that the Order by the Public Service Commission concerning the rate adjustment may be appealed, whichever is later. Furthermore, the utility shall maintain beyond this two-year period sufficient records necessary to verify and substantiate all requirements included in these rules."
5. **103-512.2.4.** The ORS would suggest this article be amended to read: "This map shall be revised and submitted to the ORS annually unless such revision is unnecessary, in which event the utility shall notify the ~~Commission and the~~ ORS that the map on file is current. The map would show:...." This suggested change clarifies that revised maps, as well as notifications that there are no revisions, must be submitted annually to the ORS. In its currently revised format utilities would be required to make notification/filings with both the ORS and Commission. To ease the administrative burden on these regulated utilities and based on the fact that all such maps have been transferred to the ORS by the Commission the ORS would suggest that the utilities not be required to file such maps or notice with the Commission.
6. **103-512.3.1.** The ORS would suggest that the second sentence of this regulation read: "The minimum amount of the bond shall be \$100,000 and the maximum amount of the bond shall be \$350,000 based on the verified expenses of the utility for the preceding twelve month period." Further, that the fifth sentence of this regulation be changed to read: "The ~~Staff~~ ORS shall review the annual reports and certifications and determine whether the present bond of the utility accurately reflects the expenses of the utility."
7. **103-512.3.2.** The ORS would recommend that the Commission thoroughly review and amend all regulations, including this one, which concern the filing of performance bonds in order to better protect the public.
8. **103-512.3.3.** The ORS would recommend that this Regulation be deleted in its entirety. It is impossible for the ORS to perform verification of information provided by the utilities on their financial statements and this filing is therefore irrelevant. Verification of assets and their true fair market value cannot be accurately determined. In order to protect consumers and the public, the ORS recommends to the Commission that the regulations which concern the filing of performance bonds, and in particular what constitutes sufficient surety, be examined and thoroughly amended.
9. **103-512.4 (A)(15).** The ORS recommends that the language of this Regulation be amended to read: "Any other pertinent or relevant information determined by necessary by the Commission or the ORS."
10. **103-513.** In accordance with S.C. Code Ann. §58-3-200 the Commission may request an inspection by the ORS but may not conduct one itself. The ORS therefore suggests that Subsection A of the Regulation be amended to read: "Each utility shall, upon request of the ~~Commission or the~~ ORS provide to the ~~Commission or the~~ ORS a statement regarding the condition of the waste treatment facility and the adequacy of the treatment provided by the facility as determined by the Department of Health and Environmental Control and any other information concerning the plant, equipment, facilities, and service in such a form as the ORS ~~Commission~~ may require itself or under the direction of the Commission."
11. **103-514.** References to "the Commission" should be removed in subsections (A) and (C) of this regulation. As the Commission may, in some cases, eventually be the arbiter of a case or cases arising out of such interruptions in service, the ORS suggests that the requirement that utilities notify the Commission of such interruptions be removed from this regulation to remove the possibility of potential conflicts and to simplify the utilities reporting requirements.
12. **103-515.** The ORS recommends that all references to "the Commission" and/or "the Chief Clerk of the Commission" be deleted in this Regulation as the ORS has the duty and personnel

to administer accident investigations. Additionally, Commission knowledge of such occurrences may prejudice or taint any future proceedings before the Commission related to such accidents.

13. **103-530(C).** The ORS recommends that this regulation be amended to read: “Provide that a complete schedule, contract forms, rules and regulations, etc. as provided to the ~~Commission~~ and the ORS, shall also be on file in the local offices of the utility and shall be open to the inspection by the public.” As with other items discussed in this letter, this requirement of multiple filings by the utility seems unnecessary and may provide the Commission with documents or information outside the record of a future contested case.
14. **103-532.3.** The ORS suggests that this regulation be amended with the following language: “The utility at its option for good cause may refuse to accept a check tendered as payment on a customer’s account, and require payment in cash or other legal tender. “Good cause” must be justified by a water utility by evidencing a credit history problem with or of the utility customer or applicant. For the purposes of this regulation, the water utility may not consider indebtedness that was incurred by the customer or any member of his household more than six (6) years prior to the time of application.”
15. **103-535(A).** The ORS recommends that the Commission substitute “Commission” with “ORS.” As the Commission no longer has inspectors, the determination of a hazardous or dangerous condition requiring the immediate unnoticed discontinuation of service must be made by ORS or DHEC inspectors.
16. **103-535.1.** The ORS recommends that the Commission replace the reference to “the South Carolina Public Service Commission” with “the ORS.” Notice prior to the discontinuance of service should be provided to the water/wastewater division of the ORS as there is no longer such a function or personnel at the Commission. Further, knowledge by the Commission of such an action may prejudice the Commission in a future proceeding.
17. **103-537(B).** The ORS recommends that this regulation be amended to replace the word “Commission” with “ORS” as service area maps are no longer on file with the Commission, but rather with the ORS.
18. **103-539.** The ORS recommends that the language of this regulation be amended to read: “A copy of the utility’s tariffs as filed with the Commission and the ORS will be on file in the local business offices of the utility and shall be available for public inspection.”
19. **103-541.** The ORS recommends that a second paragraph be added to this regulation, making the current paragraph (A) and adding the following: “(B) A wastewater facility shall not be allowed to enter into a loan agreement without the approval of the Commission. This rule shall not apply to any loan agreement payable within one year from the date of the agreement, except in case of subsequent agreements made to refund such short-term obligations; but short term obligations may be renewed by similar obligations without the approval of the Commission for an aggregate period not exceeding two years. This rule shall not apply in the case of an emergency as determined by the Commission.” The ORS suggests this addition based on its concern that a utility may become obligated to an agreement that would impact the utility’s ability to continue to provide adequate wastewater service to its customers. A long-term loan agreement may affect the utility’s financial fitness, and thereby its willingness or ability to provide sewer service. The ORS further recommends that the title of this Regulation be changed to “Contracts and Financial Agreements.”
20. **103-555 (C).** The ORS recommends that this Regulation be amended to read: “Restrictions on Installation – A sewer service pipe shall not be laid in the same trench as a water pipe unless the water service pipe is laid on a shelf on the side of the trench, not less than ~~twelve (12)~~ eighteen (18) inches above and not less than eighteen (18) inches horizontally away from the sewer pipe.” This recommendation is in keeping with standard engineering practices.

21. **103-571 (C).** The ORS recommends that the words “the Commission” be removed from this Regulation. The Commission does not have the staff to respond to interruptions in service and its knowledge of such prior to the commencement of a docketed matter may provide it with information outside the record of a disputed case or controversy.
22. **103-581 (B).** The ORS again recommends that the word “Commission” be removed from this Regulation as the Commission does not have the personnel to respond to any accident and as such may prejudice the Commission in future proceedings regarding any such incidents.

Thank you for allowing the Office of Regulatory Staff the opportunity to be a part of the workshop and other events involved in the development of these Regulations.

Yours Truly,


Jeffrey M. Nelson